



DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

**[Docket no. 220325-0079]**

**RTID 0648-XC203**

**Pacific Halibut Fisheries; Catch Sharing Plan; Inseason Action**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; inseason adjustment; request for comments.

**SUMMARY:** This document announces additional season dates for Pacific halibut recreational fisheries in the International Pacific Halibut Commission's regulatory Area 2A off Washington, Oregon, and California. Specifically, this action adds the following dates: the Washington Puget Sound subarea to open 7 days per week from August 11 through September 30; Washington North Coast subarea to open Thursday through Monday from August 11 through September 5, and 7 days per week from September 6 through September 30; Washington South Coast and Columbia River subareas to open August 19, 25, 28, September 3, 4, and 23; and Oregon Central Coast subarea to open every Thursday through Saturday from August 4 through October 31. This action is intended to conserve Pacific halibut and provide angler opportunity where available.

**DATES:** This action is effective August 4, 2022, through October 31, 2022. Submit comments on or before August 22, 2022.

**ADDRESSES:** Submit your comments, identified by NOAA-NMFS-2022-0003, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-

2022-0003 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Scott M. Rumsey, c/o Kathryn Blair, West Coast Region, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR, 97232.

*Instructions:* NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post them for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

*Docket:* This rule is accessible via the Internet at the Office of the Federal Register website at *https://www.federalregister.gov/*. Background information and documents are available at the NOAA Fisheries website at *https://www.fisheries.noaa.gov/action/2022-pacific-halibut-catch-sharing-plan* and at the Council’s website at *http://www.pcouncil.org*. Other comments received may be accessed through *www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** Joshua Lindsay, phone: 562-980-4034, fax: 562-980-4018, or e-mail: *joshua.lindsay@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** On April 1, 2022, NMFS published a final rule approving changes to the Pacific halibut Area 2A Catch Sharing Plan and implementing recreational (sport) management measures for 2022 (87 FR 19007), as authorized by the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773-773(k)). The 2022 Catch Sharing Plan provides a recommended framework for NMFS’ annual management measures and subarea allocations based on the 2022 Area 2A Pacific halibut catch limit of 1,490,000

pounds (lb) (675.9 metric tons (mt)) set by the International Pacific Halibut Commission (IPHC). These Pacific halibut management measures include recreational fishery season dates and subarea allocations.

Federal regulations at 50 CFR 300.63(c), “Flexible Inseason Management Provisions for Sport Halibut Fisheries in Area 2A,” allow the NMFS’ Regional Administrator to modify annual regulations during the season. These inseason provisions allow the Regional Administrator to modify sport (recreational) fishing periods, bag limits, size limits, days per calendar week, and subarea quotas, if it is determined it is necessary to meet the allocation objectives and the action will not result in exceeding the catch limit.

NMFS has determined that, due to continued lower than expected landings in portions of Washington and Oregon, inseason action to modify the 2022 annual regulations for the recreational fishery is warranted at this time to provide additional opportunity for fishery participations to achieve the Area 2A allocations as published in the final rule (87 FR 19007; April 1, 2022). As stated above, inseason modification of the fishing season is authorized by Federal regulations at 50 CFR 300.63(c). After consulting with IPHC, the Council, the Washington Department of Fish and Wildlife (WDFW), and the Oregon Department of Fish and Wildlife (ODFW), NMFS determined the following inseason action is necessary to meet the management objective of attaining the various state and subarea allocations, there is little risk of the subarea or coastwide allocation being exceeded from this action, and this action is consistent with the inseason management provisions allowing for the modification of sport fishing periods and sport fishing days per calendar week. Notice of these additional dates and closure of the fisheries will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

### **Inseason Action**

#### **Washington and Columbia River subareas**

*Description of the action:* This inseason action implements additional dates for the Washington Puget Sound, North Coast, South Coast, and the Columbia River subareas during the 2022 recreational fishery.

*Reason for the action:* The purpose of this inseason action is to provide additional opportunity for anglers in the Washington and Columbia River subareas by opening fishing on the following dates: for the Washington Puget Sound subarea, 7 days per week from August 11 through September 30; for the Washington North Coast subarea, Thursday through Monday starting August 11 through September 5, and 7 days per week from September 6 through September 30; for the Washington South Coast and Columbia River subareas, August 19, 25, 28, and September 3, 4, and 23. The subareas are open on the dates listed above, or until there is not sufficient allocation for another full day of fishing, and the area is therefore closed. The recreational fishery in the Washington Puget Sound subarea opened April 7, and the other Washington subareas and the Columbia River subarea opened on May 5, 2022. NMFS has determined that these additional dates are warranted due to lower than expected landings through June 2022 (the Washington and Columbia River subareas were not open in July), and the expectation that a substantial amount of subarea allocation will go unharvested without additional fishing dates. NMFS previously published an inseason action on June 14, 2022 (87 FR 35901) to add the dates of June 10, 17 and 24 for the Washington North Coast subarea, June 28 and 30 for the Washington South Coast subarea, and June 13 and 20 for the Columbia River subarea. As of July 15, anglers in the Washington and Columbia River subareas combined have harvested 173,372 lb (78.64 mt) of the 304,649 lb (138.19 mt) allocation (57 percent), leaving 131,277 lb (59.55 mt) remaining (43 percent of the subarea allocation). This is a result of poor weather and ocean conditions preventing anglers from safely participating in the recreational fishery off the coast of Washington and the area off of the Columbia River. For reference, by the end of June 2021, fishery participants in

the Washington Puget Sound, North Coast, South Coast, and Columbia River subareas had attained 68 percent of the available recreational allocation. Without the additional fishing days being implemented through this action, there is likely to be substantial unharvested allocation in this subarea.

### **Oregon Central Coast subarea**

*Description of the action:* This inseason action implements additional dates for summer all-depth fishing in the Oregon Central Coast subarea during the 2022 recreational fishery.

*Reason for the action:* The purpose of this inseason action is to provide additional opportunity for anglers in the Oregon Central Coast subarea every Thursday through Saturday from August 4 through October 31. The fishery was already scheduled to be open every other Thursday through Saturday starting August 4. The recreational fishery in this subarea opened on May 12, 2022. NMFS has determined that these additional dates are warranted due to lower than expected landings through July 2022, and the expectation that a substantial amount of subarea allocation will go unharvested without additional fishing dates. As of July 13, anglers in the Oregon Central Coast subarea have harvested 110,918 lb (50.31 mt) of the 269,782 lb (122.37 mt) allocation (41 percent), leaving 158,864 lb (72.06 mt) remaining (59 percent of the subarea allocation). This is a result of poor weather and ocean conditions preventing anglers from safely participating in the recreational fishery off the coast of Oregon. After 163,231 lb (74.04 mt) of the subarea allocation went unharvested in 2021, NMFS included more season days in 2022 compared to 2021. NMFS previously published an inseason action on July 7, 2022 (87 FR 41259) to add additional fishing dates in this subarea. However, catch information to date shows that even with the increased fishing dates provided for in the final rule and inseason action, participants in the fishery are unlikely to harvest the full subarea

allocation. Without the additional fishing days in this action, there is likely to be substantial unharvested allocation in this subarea.

Notice of these additional dates will also be announced on the NMFS hotline at 206-526-6667 or 800-662-9825.

Weekly catch monitoring reports for the recreational fisheries in Washington, Oregon, and California are available on their respective state Fish and Wildlife agency websites. NMFS and the IPHC will continue to monitor recreational catch obtained via state sampling procedures until NMFS has determined there is not sufficient allocation for another full day of fishing, and the area is closed by the IPHC, or the season closes for Washington on September 30, and for Oregon on October 31, whichever is earlier.

### **Classification**

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982. This action is taken under the regulatory authority at 50 CFR 300.63(c), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(3)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. WDFW and ODFW provided updated landings data to NMFS on July 15, 2022, showing that the fishery participants in the recreational fishery off of the Washington and Columbia River subareas had only caught 57 percent of the allocation, while anglers in the Oregon Central Coast had only caught 41 percent of the subarea allocation. NMFS uses fishing rates from previous years to determine the number of recreational fishing dates needed to attain subarea allocations. The level of attainment of the allocation for 2022 is substantially lower than anticipated when the 2022 final rule setting the 2022 recreational fishery season dates was developed. This action should be implemented as soon as possible to allow fishery participants to take advantage of the additional fishing dates prior to the end of the

season. As the fishery in Washington closes on September 30 and the fishery in Oregon closes on October 31, 2022, implementing this action through proposed and final rulemaking would limit the benefit this action would provide to fishery participants. Without implementation of additional season dates, a significant portion of the Washington and Oregon subarea allocations are unlikely to be harvested, limiting economic benefits to the participants and not meeting the goals of the Catch Sharing Plan and the 2022 management measures. It is necessary that this rulemaking be implemented in a timely manner so that planning for these new fishing days can take place, and for business and personal decision making by the regulated public impacted by this action, which includes recreational charter fishing operations, associated port businesses, and private anglers who do not live near the coastal access points for this fishery, among others. To ensure the regulated public is fully aware of this action, notice of this regulatory action will also be provided to anglers through a telephone hotline, news release, and by the relevant state fish and wildlife agencies. NMFS will receive public comments for 15 days after publication of this action, in accordance with 50 CFR 300.63(c)(4)(ii). No aspect of this action is controversial, and changes of this nature were anticipated in the process described in regulations at 50 CFR 300.63(c).

For the reasons discussed above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date and make this action effective immediately upon filing for public inspection, as a delay in effectiveness of this action would constrain fishing opportunity and be inconsistent with the goals of the Catch Sharing Plan and current management measures, as well as potentially limit the economic opportunity intended by this rule to the associated fishing communities. NMFS regulations allow the Regional Administrator to modify sport fishing periods, bag limits, size limits, days per calendar week, and subarea quotas, provided that the action allows allocation objectives to be met and will not result in exceeding the catch limit for the

subarea. NMFS recently received information on the progress of landings in the recreational fisheries in the Washington and Oregon subareas, indicating additional dates should be added to the fishery to ensure optimal and sustainable harvest of the subarea allocation. As stated above, it is in the public interest that this action is not delayed, because a delay in the effectiveness of these new dates would not allow the allocation objectives of the recreational Pacific halibut fishery to be met.

Dated: August 1, 2022.

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Jennifer M. Wallace,  
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[FR Doc. 2022-16852 Filed: 8/4/2022 8:45 am; Publication Date: 8/5/2022]